



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जन जाति आयोग

National Commission for Scheduled Tribes

(A Constitutional Body set up under Art. 338A of the Constitution of India)

Case File No. SSK/3/2019/STGMH/DEOTH/RU-IV

Dated: 13.06.2019

To,

1. **The Principal Secretary,**
Revenue Department,
Government of Maharashtra,
Mantralaya,
Mumbai – 400 032 (Maharashtra)
2. **The Commissioner,**
Municipal Corporation of Greater Mumbai,
Mahatma Gandhi Road,
Aggarwal Market, Vile Parle East,
Vile Parle,
Mumbai – 400 057 (Maharashtra)
3. **The District Collector,**
Mumbai Suburban District,
Bandra, Mumbai (Maharashtra)
4. **The Superintendent of Land Records,**
Mumbai Suburban District,
10th Floor, Administrative Building,
Near Chetana College, Government Colony,
Bandra East, Mumbai, Maharashtra – 400 051.

Sub: Proceedings of the Sitting taken by Smt. Maya Chintamn Ivate, Hon'ble Member, National Commission for Scheduled Tribes (NCST) on 28.05.2019 in the case of Shri Shailesh Suresh Kharva (Patel), D-3, Friends Chs Ltd., Charkop, Kandivali (W), Mumbai regarding illegally alienation of ST land.

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held on 28.05.2019 under the Chairmanship of Smt. Maya Chintamn Ivate, Hon'ble Member, National Commission for Scheduled Tribes on the above mentioned subject.

It is requested that action taken report in the matter may be intimated to the Commission, within 30 days positively for placing the same before the Hon'ble Member, NCST.

Yours faithfully,

(Y.K. Bansal)

Research Officer

Copy to:

Shri Shailesh Suresh Kharva (Patel),
D-3, Friends Chs Ltd., Plot No. 719,
Sector-7, Near Gyanvardhini School,
Charkop, Kandivali (W),
Mumbai – 400 067 (Maharashtra).

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. SSK/3/2019/STGMH/DEOTH/RU-IV

PROCEEDINGS OF SITTING HELD ON 28.05.2019 CHAIRED BY SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI SHAILESH SURESH KHARVA (PATEL), KANDIVALI (W), MUMBAI, MAHARASHTRA REGARDING ILLEGALLY ALIENATION OF ST LAND.

Date of Sitting: 28.05.2019

List of officers present in sitting is Annexed.


The petitioner Shailesh Suresh Kharva (Patel), Kandivali (W), Mumbai, Maharashtra vide his representation dated 04.02.2019 has submitted the grievances regarding illegally alienation of ST land.

He further alleged that he has been owner of Survey No. 163, C.T.S. No. 128 A Pt., Plot of land situated at Kandivali (W), Mumbai. His family holding of 3 acres 33 Gunthas land on above cited plot and using the same for residential and agricultural purposes. The entire area of Survey No. 163 plot had been a thick forest land where there was no road, light, water and other facilities for several decades however their ancestral and their generation used to live there with great hardship. They continued their farming activities i.e. cultivation, seeding and harvesting etc. The land was grabbed by one builder M/s Comwood Agency.

In fact, the land was Govt. land granted to one Shri Pariera by the then British Govt. in 1942 and thereafter the Govt. issued notification for de-reserving the said land as reserved forests. As the said land was a forest various group of Scheduled Tribes occupied large area of the land for habitation and cultivation. Shri Pariera also allowed ST families to cultivate on the land. In the meanwhile, Govt. has taken back land from Shri Pariera. But on the intervention of the Hon'ble High Court, the land was restored in favour of Shri Pariera and the ST families who cultivated the land declared agricultural tenant. Thereafter, the land was taken by the Govt. and handed over to builder for development. The developer evicted ST families. The petitioner requested the Commission that

- (i) The Urban Department, Govt. of Maharashtra be asked to explain actual status of the land.
- (ii) The Land Record Department be asked to explain about changes in Land Records.
- (iii) The District Collector, Mumbai Sub-urban be asked to non following of due procedure for land use.

2. NCST notice sought a report from the Principal Secretary, Revenue, Government of Maharashtra, the Commissioner, Municipal Corporation of Greater Mumbai, District Collector, Mumbai Sub-Urban District, Bandra, Mumbai and the Superintendent of Land Records, Mumbai Sub-Urban District, Mumbai on 27.03.2019. Since no report was received from the


Smt. Maya Chintamn Ivnate
Member
National Commission for Scheduled Tribes
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New Delhi


authority concerned and therefore a sitting was fixed on 28.05.2019 before the Hon'ble Member, NCST, Smt. Maya Chintamn Ivnate to have a discussion with authority concerned.

3. All authority concerned except Superintendent of Land Records as called vide Commission's sitting notice dated 21.05.2019 did not appear and also not sent any request for exemption. The Commission has taken it very seriously. However, in the interest of ST petitioner, the sitting was held on 28.05.2019. The Superintendent of Land Records, Mumbai Suburban District, the City Survey Officer, Borivali along with petitioner were present.

4. In sitting, the Superintendent of Land Records submitted a report in the matter. As per report and submission made by the Officer concerned it is gathered that the present grievance is regarding the property bearing City Survey Number 128 corresponding Survey No. 163 of Village Kandivali, Taluka Borivali, Mumbai Suburban District. As per records maintained by City Survey Office, Borivali, the name of Government of Maharashtra is entered as holder of property during the course of City Survey Enquiry Conducted in the year 1964. Thereafter as per the order dated 13.07.1979 passed by then District Superintendent of Land Records, Mumbai Suburban District under No. CTS/SR-4A/321, the area of the property was increased from 43960.3 Sq. mets to 683090.30 sq. mtrs. Vide Mutation Entry dated 25.03.1980 passed by City Survey officer, Borivali. The said property was proposed to be acquired for Maharashtra Housing and Area Development Authority (MHADA) and after the joint demarcation the area of the said property was arrived at 163 Acre 6 gunthas and 10 Anna. As per the Kami Jasta Patrak and Akar Phod maintained by the Revenue Office, the area arrived at 131 Acre 28 gunthas and 13 anna. The aforesaid area correction was made pursuant to Order dated 13.07.1979 passed by then Superintendent of Land Records, Mumbai Suburban District on the basis of report dated 19.06.1979 given by then City Survey Officer No. 6 and report dated 30.06.1979 given by then District Inspector of Land Records. However there is no corrections in boundary of Survey No.163 as well as City Survey No. 128 of Village Kandivali, Taluka Borivali. There is an increase in area admeasuring 31 ace 17 guthas and 14 annas within the boundary of the same survey No. 163/CTS No. 128, however the MAP is unavailable and hence it is not possible to show the location of increased Area.

In addition, as per order and judgment passed by Hon'ble Bombay High Court in PIL No. 1179 of 2004, the matter related to excess area of 31 acre 17 gunthas and 14 annas was decided by Hon'ble Minister, Revenue and Forest Department vide order dated 26.08.2014 under No. S-30/Jameen-2610/P.K.50/J-3 who after hearing the matter on merit passed the Order interalia concluded and affirmed the decision taken by then District Superintendent of Land Records, MSD under Order No. CTS/SR 4A/321 dated 13.07.1979. The Hon'ble Revenue Minister in his observation in para No. 28 was also pleased to observe that area correction Order passed by then District superintendent of Land Records, MSD was correct.

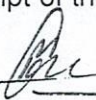
5. After considering all the facts submitted by the petitioner and authority concerned, the Commission observed that the land in question was ST land and it was grabbed by the non STs. AS per the reports of the Revenue Records dated 19.06.1969 and 30.06.1979 the Superintendent of land Records on 13.07.1979 corrected the area of Sl. No. 163/pt as 163-4-10 acres. The boundaries of the said S. No. 163/pt were not changed through the area was increased by 32 acres. The land along with additional 32 acres was in possession of Shri


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Pareira and neither the Govt. recovered the occupancy price in respect of the said additional 32 acres of land from Pareira, nor has the Govt. taken back the said 32 acres of excess land from Pareira. Moreover, the said land was a reserved forest since 1885 under Section 19 of the India Forest Act, 1927 from 01.11.1942. However, despite this fact the State Govt. has chosen to remain silent and ordered to evict of ST families from the land. Thereafter, without verifying the authenticity and genuiness of documents the Municipal Corporation of Mumbai approved to start the development and construction work on the land by the builder M/s Conwood Agency. The layout plan of the land was not got approval though the land was under possession of STs. Thus, the State Govt. has violated all rules/procedures in this case.

The Commission, therefore recommends that

- The District Collector, Mumbai Suburban and Municipal Corporation, Mumbai will review the entire case keeping in view the petitioner's documents and will take corrective measures for restoration of the land in favour of petitioners.
- The District Revenue authority, Land Records Department and Municipal Corporation of Greater Mumbai will ensure that construction activities on the land in question be stopped with immediate effect as the matter is under consideration before the Commission.
- Police protection should be provided to the ST petitioner and his family members. In this regard the petitioner is also advised to submit a complaint to the local Police Station as well the Commission for Police protection.
- All cases related to alienation of ST land will be inquired in detail by visiting on the spot inspection from a NCST team.
- An action taken report on the Commission's recommendations should be submitted to the NCST within 30 days from the receipt of this proceedings.


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List of participants

NCST

1. Smt. Maya Chintamn Inate(In chair)
2. Shri P.T. Jameskutty, Deputy Secretary
3. Shri Y.K. Bansal, Research Officer
4. Shri H.R. Meena, Sr. Investigator
5. Shri Sudhir Atram, PS to Member

Officers of Government of Maharashtra

1. Shri Sangram Jogdand, Superintend, Land Records, Mumbai Suburban
2. Shri Amarsinh R. Patil, City Survey Officer, Borivali, Mumbai Suburban

Petitioner

Shri Shailesh Suresh Kharva